IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23075 of 2004

Between:

Rayani Rajyalakshmi, W/o.Narasimharao,
R/o.Ramkur, J.Pangulur (M),
Prakasam District.

..... PETITIONER

AND

1 Joint Collector, Prakasam District at Ongole.
2 Revenue Divisional officer, Ongole, Prakasam District.
3 Mandal Revenue officer, J.Pangulur (M), Prakasam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandmaus declaring the order of the 1st respondent in Rc.CS2/2739/2004, dt.19-11-2004 is illegal, irregular and violative of Art: 14 and 21 of the constitution of India and A.P. Schedule commodities (Regulation of distribution by Card system) order 2001, set aside the same, allow the appeal and consequently suspend the operation of order passed by 2nd respondent in Rc. No.C/843/2004, dt.21-7-2004 pending disposal of the enquiry before the 2nd respondent in the interests of justice and pass such other order or orders.

Counsel for the Petitioner:MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The dealership of the petitioner was suspended by the 2nd respondent through order, dated 21.07.2004, on the ground that she got married about five years back and is running the shop Benami. It was also alleged that the stocks are being sold at higher rates and the Card Holders are not being supplied the commodities up to their entitlement. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent together with an application for grant of stay. On 08.08.2004, the 1st respondent rejected the stay petition. Thereupon, petitioner filed W.P.No.14370 of 2004. This Court disposed of the writ petition directing that the order, dated 21.07.2004, passed by the 2nd respondent shall not be given effect to, till the 1st respondent disposes the appeal. On 19.11.2004, the 1st respondent disposed of the appeal and remanded the matter to the 2nd respondent. The grievance of the petitioner is that she is disabled from functioning as dealer, in view of the orders passed by the 1st respondent.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The facts, narrated above, reveal that the petitioner was permitted to function as dealer, till the disposal of the appeal preferred by her before the 1st respondent. In his order, dated 19.11.2004, the 1st respondent has undertaken extensive discussion about the contentions advanced on behalf of the petitioner. However, he has chosen to remand the matter without indicating as to whether the order of suspension passed by the 2nd respondent is either affirmed or set aside. The only factor, which appears to have weighed with the 1st respondent is that what is passed against the petitioner, is only an order of suspension.

The question of remanding the matter by an appellate authority would arise only when the order under appeal is set aside. If the 1st respondent was not inclined to interfere with the order of suspension, he ought to have indicated the same in his order. Further, when the petitioner was permitted to function as fair price shop dealer all through, no harm, as such, would have been caused to anyone, if she were to have been permitted to function for few weeks more, within which the 2nd respondent was directed to conclude the proceedings.

Hence, the writ petition is disposed of directing that the petitioner shall be entitled to function as fair price shop dealer, till the 2nd respondent concludes the proceedings before him. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 16th December, 2004

Note: Issue operative portion by wire

at party's costs.

(B/o.)

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To

1 Joint Collector, Prakasam District at Ongole.
2 Revenue Divisional officer, Ongole, Prakasam District.
3 Mandal Revenue officer, J.Pangulur (M), Prakasam District.

4 2CCs to G.P. for Civil Supplies, High Court Buildings,

Hyderabad(OUT).

5 CD copies